Appendix

Amendment to the Regulations of the Commissioner of Education

Pursuant to Sections 207, 305 and 3004 of the Education Law

The Regulations of the Commissioner of Education are amended by the addition of a new Part 83, effective Septem 1, 1974, to read as follows:

PART 83

Determination of Good Moral Character

Section 83.1 Determination of good moral character. Any information indicating that an individual holding a teaching certificate or an applicant for a teaching certificate has been convicted of a crime or has committed an act which raises a reasonable question as to his moral character, shall be referred to the director of the division of teacher education and certification.

83.2 Investigation. The director of the division of teacher education and certification shall investigate the circumstances surrounding such conviction or act, and shall submit a report of his findings and recommendation to the teacher education, certification and practice board or to a subcommittee of such board, composed of no less than five members approved by majority vote of the board, to consider such reports.

83.3 Review by board. If upon review of the report of the director of the division of teacher education and certification such board or subcommittee concludes that a certified individual's moral character is adequate to permit his continued certification as a teacher, or that an applicant's

moral character is adequate to permit his certification as a teacher, a report to this effect shall be forwarded by the board or subcommittee to the director of the division of teacher education and certification. If upon such review, the board or subcommitee concludes that a substantial question exists as to the moral character of a certified individual or an applicant, notice of the basis for this conclusion and a copy of this part shall be given to the certified individual or applicant.

83.4 Hearing. If requested by the certified individual or applicant, in writing to the director of the division of teacher education and certification within 30 days after receipt of said notice that a substantial question exists as to his moral character, a hearing shall be held to determine whether the individual's certification should be revoked or whether the application for certification should be denied. In the request for a hearing, the certified individual or applicant may request that the hearing be held solely before a hearing officer or in the alternative, before a hearing officer and a three member hearing panel. Upon receipt of a request for a hearing, a hearing officer shall be appointed by the Commissioner and a hearing scheduled. The certified individual or applicant shall be given not less than 15 days notice by mail of the time and place of the hearing. If a hearing panel has been requested, the members shall be selected in the following manner from the list maintained by the Commissioner pursuant to the provisions of Education Law, Section 3020-a: one member shall be selected by the certified individual or applicant, one member shall be selected by the teacher education, certification and practice board or a subcommittee thereof and the third member shall be chosen by mutual agreement of the first two, or, if they fail to agree, by the Commissioner. The certified individual or applicant may be represented at the hearing by counsel and may produce witnesses and affidavits in proof of his

good moral character. In the case of a certified individual, the Department or the complaining party shall have the burden of proof of lack of good moral character. The hearing officer shall conduct the hearing and may administer oaths. A verbatim record shall be kept of the testimony. Upon the conclusion of the hearing, the hearing officer shall submit to the Commissioner and to the certified individual or applicant a report of his findings and conclusions or, if a hearing panel has been utilized, a report of the findings and conclusions of such panel, together with a copy of the transcript. The conclusions of the hearing officer or the hearing panel shall be based solely upon the record in the proceeding and shall set forth the factual basis therefor. The fact of conviction of a crime shall not in and of itself create a presumption that the person convicted lacks good moral character.

83.5 Appeal. If the hearing officer or hearing panel finds a substantial question as to moral character and concludes that an inidividual's certificate be annulled or that an applicant's request for certification be denied, the certified individual or applicant may file an appeal, within 30 days after the receipt of notification of such conclusion, with the Commissioner, who shall review the transcript and all evidence presented in the proceeding. Based upon the record the Commissioner may affirm, reverse or modify the findings and conclusions of the hearing officer or the hearing panel. If the Commissioner determines to deny an application for certification, he shall communicate his decision to the applicant. If the Commissioner determines to annul a certificate, he shall execute an order to that effect and shall have the order served upon the certified individual. If no appeal is taken by a certified individual or applicant within the time prescribed in this section, the conclusion of the hearing officer or the hearing panel shall be final and in the case of an annulment of a certificate, the Commissioner shall issue an order to that effect.